886

SUPREME COURT OF THE UNITED STATES.

No. 137.

THE UNITED STATES, APP'TS,

vs.

ANDREW J. COURTNEY & WIFE.

APPEAL FROM THE DIST. COURT U. S. FOR THE SOUTHERN DIST. OF CALIFORNIA.

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GIBSON, print.

S&c

Transcript of the proceedings in case No. 425—*Andrew J. Courtney and Wife, claimants,* vs. *The United States, defendant—for* 400 *varas of land in the county of Los Angeles.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this twenty-eighth day of October, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Andrew J. Courtney and wife, for 400 varas of land in the county of Angeles, was presented and ordered to be filed and docketed with No. 425, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *October* 28, 1852.

In the same case, the deposition of Abel Stearns, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with document marked H. H, No. 1, annexed thereto, with the translation thereof, marked No. 1, was filed, and is in the words and figures as follows, to wit:

(Vide page 4 of this Transcript.)

SAN FRANCISCO, *October* 29, 1852.

In the same case, the deposition of Michael White, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with document marked H. H, No. 1, annexed thereto, was filed, and is in the words and figures as follows, to wit:

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *October* 31*st*, 1853.

This case was submitted on briefs, and taken under advisement by the board.

SAN FRANCISCO, *February* 28, 1854.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board confirming the claim.

(Vide page 13 of this Transcript.)

SAN FRANCISCO, *Aug't* 15, 1854.

In the same case, on motion of the U. S. law agent, the following order was made, to wit:

(Vide page 14 of this Transcript.)

Petition.

To the honorable the United States Commissioners for the ascertaining and settlement of California land claims:

Andrew J. Courtney, and Juana Pabla de Jesus Courtney, his wife, residents of the county of Los Angeles and State of California, respectfully represents:

That the said Juana Pabla claims to be owner in fee simple of a tract of land originally granted to the native Ramon Valencia, Valencia and Pablo, by Pio Pico, while governor of California, and as such vested with sufficient powers in the premises, by deed of grant in fee simple, bearing date March 15th, A. D. 1845. That the said original grantees received immediate judicial possession thereof by the proper municipal authority, and they occupied the same from a time prior to the date of said grant until the conveyance by them of the same to the petitioner, Juana Pabla. That the said grantees built a house, planted fruit trees, built fences, and made permanent improvements on said land, and fulfilled all the conditions of said grant. That the said Valencia, one of said grantees, was the father of the two others, and died in the year 1849, leaving the other two grantees his sole heirs. That the said Ramon and Pablo Valencia sold and conveyed the said land to your petitioner, Juana Pabla de Jesus, by deed of sale, bearing date the 23d August, A. D. 1852, since which time your petitioners have occupied the same. Said tract of land is bounded and described as follows:

Beginning at an oak a few yards southeast from the stone and mortar dam, some two miles north of the mission of San Gabriel; thence running southwest along the boundary of Santa Anita 300 varas; thence southeast 180 varas; thence southwest 100 varas; thence southeast 520 varas, to a large oak with a cross cut on it; thence northeast 400 varas to another large oak having a cross cut on it; thence northwest 700 varas to the place of beginning, lying in the county of Los Angeles, State of California.

Said tract has not been surveyed by the United States surveyor general for California.

There is no interfering claim.

Your petitioner relies upon the following documentary evidence to support their claim:

1st. Copy of original grant, marked "A."

2nd. Copy of deed of sale, marked "B."

Accompanied by a translation of grant, marked 1.

They will further rely upon such parol and other evidence as may be thought necessary. And your petitioners pray, that your superior

wisdom and sense of justice will confirm the said Juana Pabla de Jesus Courtney in property and possession of said claim.

SCOTT & GRANGER,
Att'ys for Petitioner.

Oct. 28th, 1852.

Filed in office, Oct. 28th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Abel Stearns.

Los Angeles, *Oct. 28th*, 1852.

On this day, before Com'r Hiland Hall, came Abel Stearns, a witness on behalf of the claimants, Andrew J. Courtney and wife, petition No. 425, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimant, the witness testified as follows:

My name is Abel Stearns; my age fifty-four years, and I reside in Los Angeles; I have resided in California over twenty-three years.

I am acquainted with the signatures of Pio Pico, Juan Baudini, P. Hugo Reid, and Felipe Reid.

A paper is now shown me purporting to be a grant to Ramon Valencia, dated March 15th, 1845, of a tract of land seven hundred varas in length, by four hundred varas in width, to which is annexed a certificate of the giving of judicial possession, dated April 1st, 1845; the signatures of the said several persons appearing on said paper, I believe to be genuine; said paper is hereto annexed, and marked H. H., No. 1.

ABEL STEARNS.

Sworn and subscribed before me,

HILAND HALL, *Com.*

Filed in office, Oct. 28th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Michael White.

Los Angeles, *Oct. 29th*, 1852

On this day, before Com. Hiland Hall, came Michael White, a witness for the claimants, A. J. Courtney and wife, petition No. 425, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimants, the witness testified as follows:

My name is Michael White, my age is forty-two, and I reside at the mission of San Gabriel, in this county.

I am accquainted with the handwriting and signatures of Hugo Reid and G. A. Sturges.

A paper is now shown me purporting to be a deed from Ramon Valencia, Maria Jesus and Pablo Valencia, to Juana Pabla de Jesus Courtney, dated 23d of August, 1852.

The signature of Hugo Reid as a witness to said deed, and of G. A. Sturges as justice of peace, to the certificate of acknowledgment, I

believe to be their genuine signatures. I was present when the signers of said deed acknowledged the same before Sturges; he was then and still is an acting justice of the peace; I was well acquainted with the family of the Valencias, and the persons who executed the deed; I have known the family for about twenty-two years; Ramon Valencia and his father Valencia, and Pablo, brother to Ramon, were the original grantees of the land from the governor. Valencia, the father, had been dead about a year when the deed was executed; he left Ramon and Pablo, who were the only children of his who were living, to my knowledge. Ramon has a wife named Maria Jesus; Pablo had no wife, to my knowledge; Ramon and Pablo must have been between thirty and forty years old when the deed was executed.

I have known the land for twenty-two years; the Valencias had been living on the land from 1839, and might have been there before; they had cleared off the timber, and built a house, made a fence round a part, and set out vines and fruit trees. They occupied it until the sale to Courtney, since which time he has occupied it. Said paper is hereto annexed and marked H. H., No. 1. The wife of Valencia died several years before he died, and he left no widow.

MICHAEL WHITE.

Sworn and subscribed before me,

HILAND HALL, *Com.*

Filed in office, Oct. 29th, 1852.

GEO. FISHER, *Sec'y.*

Pio Pico, Gobernador Interino del Departamiento de Californias:

Por cuanto Ramon Valencia pr. si y á nombre de su Padre Valencia, y su hermano pablo indigenas de la mission de San Gabriel, han pretendido pa. su benificio personal, y el de sus familias, la propiedad de un terreno ql. hace tiempo ocupan en las immediaciones de la referida mission; practicadas las diligencias y averiguaciones necesarias; usando de las facultades ql. me son conferidas, en nombre de la *la* nation Mejicano, ha venido en concederles la peticion ql. solicitan, y sirviendoles de titulo el presente observaren las prevenciones siguientes:

1a. Se concede á los interesados la propiedad del terreno en ql. tienen fincado viña y arboles frutales, immediato a la mision de S'n Gabriel, y consta de setecientos varas de largo pr. cuatro cientos de ancho.

2o. El juez ó encargado del lugar á quien se presentaraion lo hara medio, y mandara fijar los linderos respectivos haciendo formar señales ql. siempre los determine.

3o. Los agraciados disfrutaran el terreno ql. seles hace donacion libre, y esclusivamente destinandolo al uso, y aprovecham'to ql. mas les convenga.

Ciudad de Los Angeles, Marzo 15, de 1843.

PIO PICO.

JUAN BANDINI, *Sc'rio.*

Queda tomada razon en el libro respetivo.

BANDINI.

En cumplimiento 2o articulo del presente como juez auxiliar de este lugar, nombre á Don Felipe Reid, y el Neafito Prospero, para acompañer, me y presencear las medidas correspondientes.

San Gabriel, Abril de 1o, de 1845.

P. HUGO REID.

En el mismo dia acompañado de las dos testigos presenciales, hizo comparecer á uno por parte de la mision, como en efecto compario Manuel Antonio, mayordomo de ella; presente los interesados, mande medir un cordel de cien varas, y desde una encena á mas cuantas varas el sud-este de la presa á donde se puso una cruz tiramos siete cordeles hasta otra encina grande á donde se fijo una cruz. Valvimos á la primera encina, y tirando cuatro cordeles rumbo sud-este remato casi al orilla de una cienega, á donde se puso unas piedras por mojoneras, y tirando siete cordeles al primeo rumbo de sud-este se fijo una cruz en una encina grande. Habiendo que dado satisfechos los interesados, y encargado por parte de la mision en testimonio del hecho he estendido este anto para su resguardo de Valencia é hijos firmandolo conmigo uno de los testigos, y el otro poniendo la señal de la cruz, por no saber firmar.

San Gabriel, fecha ut suprà.

P. HUGO REID,
PROSPERO. ✕

Presenciamos:
FELIPE REID.

Yo concluida se ha devuelta á los interesados para su resguardo, y como corresponde.

San Gabriel, Abril 1o, de 1845.

P. HUGO REID.

Filed in office, Oct. 28th, 1852.

GEO. FISHER, *Sec'y.*

1. *Translation of A, annexed to the Deposition of Abel Stearns.*

Translation of Grant, and Act of Judicial Possession.

Pio Pico, Governor ad interim of the Department of the Californias:

Whereas Ramon Valencia, for himself and in the name of his father Valencia, and his brother Pablo, natives of the mission of San Gabriel, have asked for their personal benefit and that of their families the property in the land which for some time occupied in the vicinity of the aforesaid mission; the proceedings and necessary inquiries having been gone through with; exercising the authority vested in me, I have in name of the Mexican nation concluded to grant the petition which they solicit, and the present serving them for title, they shall observe the following prohibitions:

Ist. The property in the lands is granted to the parties interested, where they have planted a vineyard and fruit trees immediately at the mission of San Gabriel, and consists of 700 varas in length and 400 varas in width.

2nd. The judge or officer of the place to whom they shall go shall cause it to be measured, and order them to fix the respective boundary lines, causing them to make landmarks to always determine them.

3d. The grantees shall farm the land of which grant is made, fully and exclusively devoting it to the use and profit which may most suit them.

City of Los Angeles, March 15th, 1845.

PIO PICO.
JUAN BANDINI, *Secretary.*

Account is taken in the respective book.

BANDINI.

In fulfilment of the second article of the present, as auxiliary judge, I appointed Don Felipe Reid and the Neophite Prospero, to accompany me to witness the corresponding measurements.

San Gabriel, April 1st, 1845.

P. HUGO REID.

On the same day, accompanied by the two witnesses, I caused one to appear on part of the mission, as in effect Manuel Antonio, mayordomo of it appeared, the parties interested being present, I ordered a cord of 100 varas to be measured, and from a live-oak tree, a few yards to the southeast of the dam where a cross was placed, we extended seven cords to the large live oak, where a cross was placed. We returned to the first live oak, and extending four cords, course southwest, it terminated at the edge of a marsh, where some rocks were placed for a landmark, and extending seven cords to the first course of southeast, a cross was placed and large live oak. Having left the parties satisfied and the agent on part of the mission, in testimony of the act I have extended this deed for the protection of Valencia and sons, signing one of the witnesses with me, and the other placing his sign of the cross, not knowing how to write.

P. HUGO REID,
PROSPERO. ⋈

Present:
FELIPE REID.

Being concluded, it has been returned to the parties interested, as it belongs to them.

San Gabriel, April 1st, 1845.

P. HUGO REID.

Filed in office, Oct. 28th, 1852.

GEO. FISHER, *Sect'y.*

B.—Copy of Deed to Juan P. de Courtney.

Know all men by these presents, that we, Ramon Valencia, Maria Jesus, (his wife,) and Pablo Valencia, of San Gabriel, county of Los Angeles, State of California, in consideration of the sum of one thou-

sand dollars to us in hand paid, do hereby bargain, sell and convey, unto Juana Pablo de Jesus Courtney, a certain piece or parcel of land situate in said township and county, and described as follows, to wit: Commencing at an oak with a cross cut on it, standing a few yards to the southeast of the stone and mortar dam; running S. W. along the boundary of Santa Anita, three hundred varas to the N. E. corner of R. B. Taylor's land; thence running S. E. along said land one hundred and eighty varas; thence S. W. along said land one hundred varas to the corner of Sinmes' grant; thence running S. E. along said grant four hundred varas, to the N. E. corner of grant, to Manuel Sales; thence in the same direction along said grant one hundred and twenty varas to a large oak, marked with a cross; from thence N. E. four hundred varas to another large oak with a cross cut on it; thence N. W. seven hundred varas to the place of beginning; together with all the privileges and appurtenances thereto belonging: To have and to hold the above granted premises to the said Juana Pablo de Jesus Courtney and her heirs and assigns forever.

And we, the aforesaid grantors, for ourselves, our heirs, executors and administrators, do covenant with the said Juana Pablo de Jesus Courtney, that said premises are free from all incumbrances made or suffered by us, and that we will warrant and defend the same against the lawful claims and demands of all persons claiming by, through, or under us, and against all other persons whatsoever.

In witness whereof, we, the said Ramon Valencia, Maria Jesus, (his wife,) and Pablo Valencia, have hereunto set our hands and seals this 23d day of August, A. D. 1852.

his
RAMON ⋈ VALENCIA, [s.]
mark.
her
MARIA ⋈ JESUS, [s.]
mark.
his
PABLO ⋈ VALENCIA, [s.]
mark.

Executed and delivered in presence of—
HUGO REID.

STATE OF CALIFORNIA,
County of Los Angeles.

On this 20th day of September, 1852, personally appeared before me, a justice of the peace, in and for the town of San Gabriel, State and county aforesaid, Ramon Valencia, Maria Jesus and Pablo Valencia, satisfactorily proved to me to be the person described in, and who executed the within conveyance, by the oath of Hugo Reid, a competent witness and credible for that purpose, by me duly sworn, and the said Ramon Valencia, Maria Jesus and Pablo Valencia, acknowledged that they executed the same freely and voluntarily, for the uses and purposes therein mentioned.

G. A. STURGES, *J. P.*

Received the above deed of conveyance for record on the second day of October, 1852, at two o'clock, p. m. Recorded the same at four o'clock of the same day, in the book of deeds, pages 234 and 235, at the request of Mr. Courtney.

WILSON W. JONES, *Recorder.*
Pr. H. R. MYLES, *Dep'ty.*

Filed in office, Oct. 28th, 1852.

GEO. FISHER, *Sec'y.*

Opinion of the Board of Commissioners.—Alpheus Felch.

ANDREW J. COURTNEY & WIFE
vs.
THE UNITED STATES.

For a piece of land 700 varas in length and 400 in width, in Los Angeles county.

The petitioner has given in evidence an original grant of the land in question, made by Governor Pio Pico to Valencia and his two sons, Ramon and Pablo Valencia, all natives of the mission of San Gabriel, on the 15th day of March, 1845, under this grant, as appears by the duly authenticated testimonial thereof, judicial possession of the premises was given to the grantee, with boundaries properly defined, April 1st, 1845. It is proved that the grantees occupied the land long before the grant was made, and that that they continued to live upon and cultivate it until the sale hereinafter mentioned.

The present claimants have given in evidence a deed of the land to Juana Pabla de Jesus Courtney, wife of Andrew J. Courtney, who joins in this petition, dated August 23d, 1852, and executed by Ramon Valencia and his wife, and by Pablo Valencia; Ramon and Pablo, as two of the three original grantees, were the owners of two-thirds of the property; the proof shows that they also possessed at the time of the conveyance the interest of their father, the other grantee, who died about a year before leaving these two sons his heirs. They thus became the owners of the entire estate, and had full power to convey.

As the property belongs to the wife of Courtney, under the deed to her in her own right, a decree will be entered accordingly in her favor.

Confirmed.

Filed in office, Feb'y 28th, 1854.

GEO. FISHER, *Sec'y.*

Decree of Confirmation.

ANDREW J. COURTNEY & WIFE
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commissioners that the claim of the said petitioner, Juana Pabla

de Jesus Courtney, wife of said Andrew J. Courtney, is valid, and it is therefore decreed that the same be confirmed to her.

The land of which confirmation is hereby made is situated in Los Angeles county, and is the same where Valencia and his two sons Ramon and Pablo Valencia planted a vineyard and fruit trees, and is bounded and described as follows, to wit: Commencing at a live-oak tree a few yards to the southeast of the dam where a cross was placed, and running thence seven hundred varas to the large live-oak tree where also a cross was placed; then commencing at the live-oak tree first mentioned, and running four hundred varas, course southwest to some rocks placed for a landmark, and being on the edge of a marsh; thence running southeast and parallel with the first line above mentioned seven hundred varas, to a large live-oak tree where a cross was placed, and thence to the place of beginning; said premises being seven hundred varas in length and four hundred in width.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON.

Filed in office, Feb'y 28th, 1854.

GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing fourteen pages, numbered from 1 to 14, both inclusive, to contain a true, correct and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 425 on the docket of the said board, wherein Andrew J. Courtney and wife are the claimants against the United States, for 400 varas of land in the county of Los Angeles.

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, [SEAL.] this thirtieth day of October, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the southern district of California, it is hereby ordered, that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify, that the foregoing 16 pages, numbered from 1 to 16, both inclusive, contain a full, true and correct copy of transcript in case No. 139, filed in my office, wherein Juana Paubla de Jesus Courtney is appellee, and the United States are appellants, for 400 varas land near the mission of San Gabriel.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Los Angeles, California, this 17th day of March, A. D. 1856.

[SEAL.]

C. E. CARR, *Clerk*,
By O. MORGAN, *Dep'y*.

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

JUANA PAUBLA DE JESUS COURTNEY, appellee,
ads.
THE UNITED STATES, appellant.

Docket No. 139.
Transcript No. 425.

Be it remembered, that on the 8th day of November, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit: a duly certified transcript of the proceedings and decision of the commission to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Juana Paubla de Jesus Courtney is the claimant against the United States, for the place named, 400 varas land, near San Gabriel, was received and filed, and docketed with No. 139, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *Feb'y* 27, 1855.

In same case, notice of appeal by Att'y Gen'l U. States filed.

(Vide page 1.)

LOS ANGELES, *Nov.* 8, 1855.

In same case, petition for review by U. S. dis't att'y filed.

(Vide page 2.)

LOS ANGELES, *Nov. 24th*, 1855.

In same case, answer by claimants filed.

(Vide page 5.)

Los Angeles, *Jan'y* 15, 1856.

In same case, the opinion of the court was delivered confirming the claim, and the following decree entered and filed.

(Vide page 7.)

Los Angeles, *Mch. 7th*, 1856.

In same case, order of appeal to Supreme Court was filed.

(Vide page 8.)

Office of the Attorney General of the United States,
Washington, *17th January*, 1855.

Andrew J. Courtney et ux.
vs.
The United States. } 425.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle the private land claims in the State of California, in favor of the claimants, and a transcript of the proceedings in which was received in this office, on the 12th day of October, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed Feb'y 27th, 1855.

C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California, city and county of Los Angeles, State of California.

Andrew J. Courtney & Wife, app'ees, ads. The United States, app't. } Docket No. 139. Transcript No. 425.

To the Hon. Isaac S. K. Ogier, Judge:

The petition of Pacificus Ord, a resident of said city, county, and State, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in the name and behalf of the United States, represents as follows: That heretofore, to wit, on or about the 28th day of October, A. D. 1852, Andrew J. Courtney and Juana Pabla de Jesus Courtney, his wife, presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, claiming a tract of land near the mission of San Gabriel, situate in the county of Los Angeles, State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to. That thereafter, to wit, on or about the 28th day of February, A. D. 1854,

the said commissioners confirmed, by final decision, the said claim of said petitioners. That thereafter, to wit, on or about the 8th day of November, A. D. 1855, a duly certified transcript of the proceedings and decision of the said commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 425; reference to which it is prayed may be had, and made part of this petition.

That on or about the 12th day of October, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said commissioners in said cause, and the papers and evidence on which said decision was founded. That thereafter, to wit, on or about the 27th day of February, A. D. 1855, the said Attorney General of the United States filed, or caused to be filed in behalf of the United States, a notice with the clerk of said district court of the United States, that the appeal in said cause from the said decision of the said commissioners, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the land claimed as aforesaid is situate in the southern district of California, and within the jurisdiction of this honorable court.

Your petitioner further represents and insists, that the said claim is invalid, and the said decision of said commissioners is erroneous, and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of the proceedings and decisions of said commissioners in said cause, filed and appealed from as aforesaid.

And your petitioner denies all and singular, each and every allegation in the said petition of said claimants, presented as aforesaid to said commissioners.

And your petitioner further denies, that the said claimants have any valid right or title to said land claimed as aforesaid, or any part thereof.

And no sufficient proof having been made of the allegations in said petition to said commissioners, or in support of the said claim, no decision confirming the same should have been made by said commissioners, but the said claim should have been rejected by them. And the said claimant having no valid right or title, derived from the Spanish or Mexican governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to, the United States by virtue of conquest, and the treaty of peace, friendship, limits, and settlement between the United States and the republic of Mexico, made at the city of Guadelupe Hidalgo, February 2d, A. D. 1848.

Wherefore the said Pacificus Ord, Attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in

the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimants, or their attorneys, may be served with a copy of this petition; and that this honorable court will review the said decision of said commissioners and reverse the same, and decide on the validity of the same, and decree the alleged title to be invalid, with costs and general relief.

P. ORD,
Att'y of the U. S. for the Southern District of Cal'a.

Filed, Nov. 8th, 1855. C. E. CARR, *Cl'k.*

In the United States District Court for the southern district of California.—County of Los Angeles.

ANDREW J. COURTNEY & WIFE, appellees, ads.
THE UNITED STATES, appellants. } No. 425.—Presa.

The answer of Andrew J. Courtney, and Juana Pabla de Jesus Courtney, his wife, to the petition filed in behalf of the United States by the district attorney of the southern district of California, on appeal from the decree of the U. S. land commissioners, respectfully shows to this honorable court:

That on the 15th day of March, A. D. 1845, Pio Pico, governor of California, by virtue of authority in him vested, granted to Ramon Valencia, his father, and his brother Pablo, the vendors of the appellee, a certain piece, parcel, or tract of land in the vicinity of the mission of San Gabriel, in the present county of Los Angeles, containing about acres, being length seven hundred varas, and in width four hundred varas, with the description contained in the original grant.

That on about April 1st, A. D. 1845, the said tract of land was duly surveyed by the proper officers, and the juridical possession of it given to the said Ramon Valencia, his father, and the brothers of the said Ramon, called Pablo, all three natives of the mission of San Gabriel, the original grantees and vendors of the appellees.

That on or about 23d August, A. D. 1852, the said Ramon Valencia, his brother Pablo, and their father, Valencia, sold and conveyed their right, title, and interest in the said tract of land to the appellees in due form of law.

That the original grantees and the appellees faithfully performed all the conditions annexed to said grant.

The original grantees, before the date of said grant, and up to the time that they conveyed the same to the appellees, were in the peaceful and undisputed possession of the said tract of land; and the appellees, since the conveyance to them of the said tract of land by the original grantees, have occupied with peaceful and undisputed possession the said land.

Wherefore the appellees pray this honorable court to affirm the decree of the said board of U. S. land commissioners.

A. J. COURTNEY, *For self and wife.*

Filed Nov'r 24th, 1855. C. E. CARR, *Clerk.*

Decree.

District Court of the United States for the southern district of California.—December Term, A. D. 1855.

JUANA PAUBLA DE JESUS COURTNEY, appellee, ads. THE UNITED STATES, appellant. } No. 139. (400 varas.)

This cause coming on to be heard at a regular term of this court on appeal from the final decision of the commissioners to ascertain and settle private land claims in the State of California, under the act of Congress approved March 3d, 1851, on a transcript of the decision and proceedings, and of the papers and evidence on which said decision was founded, and it appearing to the court that the said transcript has been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged and decreed, that the said decision be confirmed; and it is further ordered, adjudged and decreed, that the claim of the appellee to a certain tract of land near the mission of San Gabriel is valid, the said lot of land being the same now occupied by the appellee, and bounded as follows, viz: Beginning at a live-oak tree a few yards southeast of the stone and mortar dam, some two miles north of the mission of San Gabriel, running thence seven hundred varas to the large live-oak tree where a cross was placed; thence commencing at the live-oak tree first mentioned, and running four hundred varas, course southwest, to some rocks placed as a landmark, and being on the edge of a marsh; thence running southeast and parallel to the first line above mentioned, seven hundred varas, to a large live-oak tree, where a corner was placed, and thence four hundred varas in a northeasterly direction to the oak tree to which had been run the first line from the beginning point, and marked as a corner; reference for a more particular description being had to the grant and juridical possession of file in this case.

(Signed) ISAAC S. K. OGIER,
Filed Jan'y 15th, 1856. *U. S. Dist. Judge.*
(Signed) C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California—Los Angeles, December Term, 1855.

ANDREW J. COURTNEY AND WIFE, appellees, ads. THE UNITED STATES, appellants. } No. 139. No. 425 of Transcript.

On appeal from the U. S. Land Commission.

On motion of P. Ord, attorney of the United States for the southern district of California, it is hereby ordered by the court that an appeal

be granted the United States to the Supreme Court of the United States, from the judgment of this court against the said United States in the above entitled cause, rendered on or about the 17th day of December, A. D. 1855.

(Signed) P. ORD, *Dist. Att'y.*

Filed M'ch 7th, 1856.

(Signed) C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing 8 pages, numbered from 1 to 8, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said court, of the documentary evidence, and of testimony of witnesses upon which the same was founded, on file in this office, in case No. 139 on the docket of said court, wherein Juana Paubla de Jesus Courtney is appellee, and the United States are appellants, for 400 varas of land, near the mission of San Gabriel.

In testimony whereof, I have hereunto set my hand and [SEAL.] affixed the seal of said court, at Los Angeles, California, this 17th day of March, A. D. 1856.

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

845

SUPREME COURT OF THE UNITED STATES.

No. 138.

THE UNITED STATES, APPELLANTS,

vs.

JOSÉ MARIA VILLAVICENCIO.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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GIDEON, Print.

Transcript of the proceedings in case No. , Jose Ma. Villavicencio, claimant, vs. *The United States, defendant—for the place called "Corral de Piedra."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this twentieth day of April, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of José Maria Vallavicencia, for the place named "Corral de Piedra," was presented, and ordered to be filed and docketed with No. 190, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Sept. 9th*, 1852.

In case No. 190, José Maria Vallavicencia, for the place named "Corral de Piedra," the deposition of Pablo de la Guerra, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 4 of this Transcript.)

SAN FRANCISCO, *Dec. 18th*, 1852.

In the same case, the counsel for Francisco Branch presented a petition to contest the right of the said claimant to the said place; ordered, that the petition be filed with the papers in case 190, and the petitioner be allowed to contest the said claim, under the additional regulations adopted by the board on February 9th, 1852; which petition is as follows, to wit:

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *Jan'y 6th*, 1853.

In the same case, the deposition of Andres Pico, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *Aug.* 26, 1853.

Case No. 190 called; submitted on briefs on both sides, and taken under advisement.

SAN FRANCISCO, *Nov.* 15, 1853.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board confirming the claim.

(Vide page 43 of this Transcript.)

Petition.

To the honorable Commissioners to settle private land claims in California.

The petitioner, José Maria Villavicencio, respectfully shows: That on the 20th day of December, A. D. 1840, he applied through the proper authorities for the tract of land called "Corral de Piedra," which is shown by the expediente, a copy of which is submitted herewith, marked "A," with a translation marked "B."

That on the 14th day of May, A. D. 1841, Juan B. Alvarado, governor of California, by virtue of authority in him vested, granted to the petitioner the said tract of land situate in the present county of San Luis Obispo, with the boundaries specified in the grant and accompanying map, but specifying its extent to be two square leagues, a little more or less, a copy of which grant and map is submitted herewith marked "C," with a translation marked "D."

That on the 2nd day of September, A. D. 1842, the said tract of land was duly surveyed, and the juridical possession of it given to the petitioner, a copy of which act is submitted herewith marked "E," with a translation marked "F." That finding his juridical possession to contain more land than that specified in the title, he petitioned to the governor for an extension of his title, and that accordingly Pio Pico, governor of California, by virtue of authority in him vested, on the 28th day of May, A. D. 1846, extended the title of the petition, to include all the land included in his map and juridical possession, a copy of which grant of extension is submitted herewith marked "G," with a translation marked "H."

And the petitioner further shows, that the said tract of land has not been surveyed by the surveyor general of the United States, but that it was duly surveyed at the time of giving the juridical possession of it, and its boundaries marked out.

That the petitioner has been since the year 1840, and now is, with those holding under him, in the quiet, peaceable, and undisputed possession and occupation of the said tract of land.

That he knows of no conflicting claim; that he relies for confirmation of title upon the original papers, copies of which are submitted herewith, upon the minutes and records in the archives now under the charge of the surveyor general of the United States, and upon such other and further proofs as he may be advised are necessary.

Wherefore he prays the commissioners to confirm to him the said tract of land.

By his attorneys, HALLECK, PEACHY, & BILLINGS.

Filed in office, April 20th, 1852.

GEORGE FISHER, *Sec'y.*

Deposition of Pablo de la Guerra.

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS, LOS ANGELES, *Sept.* 9, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came Pablo de la Guerra, a witness produced in behalf of the claimant, José Maria Villavicencio, whose petition is No. 190 on the docket of the said board, and was duly sworn, his evidence being given in English.

The law agent was notified and attended.

1st Question. What is your name, age, and place of residence?

Answer. My name is Pablo de la Guerra; my age is about 32 years; I reside in Santa Barbara, and am a native of California.

2nd Quest. Examine the document marked No. 5, and attached to this deposition, and say if you know the signatures.

Ans. I am acquainted with the signatures of Manuel Jimeno, J. Mariano Bonilla, Juan B. Alvarado, and José Matias Moreno; their signatures to these documents are genuine; and to the best of my belief the documents themselves are genuine.

PABLO DE LA GUERRA.

U. S. law agent present.

Sworn to and subscribed before me, this 9th of Sept., 1852.

HARRY J. THORNTON, *Com'r, &c.*

Filed in office, Sept. 9, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Andres Pico.

SAN FRANCISCO, *Jan'y 6th*, 1853.

On this day, before Com'r Harry J. Thornton, came Andres Pico, a witness in behalf of the claimant, José Maria Villavicencio, petitioner, No. 190, and was duly sworn, his evidence being given in Spanish, and interpreted by the secretary.

The U. S. law agent (associate) was present.

My name is Andres Pico; my age is 42 years; I was born in California, and live in Los Angeles.

I know the rancho called "Corral de Piedra," in the county of San Luis Obispo; José Maria Villavicencio first occupied it in 1841, with cattle, and horses, and sowings; he began to build a house the same year; he has lived on it ever since.

ANDRES PICO.

U. S. law agent present.

Sworn to and subscribed before me, this 6th of January, 1853.

HARRY J. THORNTON, *Com'r, &c.*

Filed in office, Jan'y 6th, 1853.

GEORGE FISHER, *Sec'y.*

Petition of Intervention.

To the honorable Commissioners to settle private land claims in California:

In the matter of the petition of José Maria Villavicencio, praying the confirmation of title to the rancho called "Corral de Piedra," situate in the county of San Luis Obispo, which petition is on file in the office of the secretary of this honorable board, numbered 190, the petitioner, Francisco Branch, respectfully represents:

That on the 19th day of August, A. D. 1849, the said José Maria Villavicencio sold and conveyed to this petitioner a certain portion of said tract, called "Corral de Piedra," which portion is called "Arroyo Grande," and more particularly described in the deed of sale, copy of which is submitted herewith, marked "No. 1," with a translation marked "No. 2."

That on the 27th day of February, A. D. 1851, the said Villavicencio sold and conveyed to the petitioner a certain other portion called "the old house," of the said tract of "Corral de Piedra," as is more particularly shown in the original deed of conveyance, copy of which is submitted herewith and marked "No. 3."

Wherefore the petitioner prays that this his petition of intervention in the claim of the said Villavicencio, to the said rancho of "Corral de Piedra," numbered 190 on the docket of the commissioners, be allowed, and that the papers filed in that claim may be taken as a part of this petition; and the petitioner further prays that the tract of land described in the aforesaid conveyances be confirmed to the petitioner.

HALLECK, PEACHY, & BILLINGS,
Atty's for FRANCISCO BRANCH.

The foregoing petition of intervention admitted and assented to.

HALLECK, PEACHY, & BILLINGS,
Atty's for J. M. VILLAVICENCIO.

No. 2.

In the town of San Luis Obispo, on the 19th day of the month of August, of the year eighteen hundred and forty-nine, before me, Juan Miguel Price, auxiliary judge of said town, and the assisting witnesses with whom I act in the established form, there came Don José Maria Villa and Don Francisco Branch, both residents, and whom I certify I know; and the first said, that for himself, and in the name of his heirs and successors, and of whoever of them might have title, voice or claim in any manner, he gives to the second, in legal sale and perpetual alienation, the part of the land of his ownership known by the name of "Arroyo Grande," and the extent of which is marked out by the following boundaries: in length from the boundary of Mr. Sparks, to the high range of Las Lajas, and in width from the Arroyo Grande, to the line formed from an angle of the white cliff in "Las Lajas," on the part towards San Luis to El Portezuela, and the marked hill, and thence to the "Lomita de la Cruz," in the same boundary line of

Sparks, on Pismo, excepting from the described extent the plain situated on the Arroyo Grande, from the old house to the point where the thicket of the arroyo touches the hills below the marsh; which land is shown to be the property of Villa by the documents which he presented, and which I certify I have seen, and they do not accompany this writing because the ownership of Villa contains a greater extent than that which he sells, declaring that it is free from all incumbrance, public, perpetual, temporal, special, general, tacit, and expressed, and as such he delivers it, that he may possess, enjoy, exchange, alienate, and dispose of it as of his own property, acquired with just and legal title, for he receives for it one thousand one hundred dollars, in current money, (1100,) one hundred and fifty head of chosen cattle, and two hundred and twenty head of every kind; which sums Villa acknowledges that he has received, and is satisfied as being the greatest value of the land; and (as so) the delivery (not) being made in presence, he renounces the laws referring to it, those of the proof of its payment and receipt, as in it referred to, and fromt his time forth he dispossesses himself, desists, takes away, and separates himself from the ownership and possession, title, recourse or any other right which may pertain to him in the aforesaid land; and he renounces and transfers it to Don Francisco Branch, that he may dispose of it as of his own property legally acquired, and he confers on him power with free, full, and general administration; the vendor binding himself that this transfer will be certain, sure and effective, and no power will disturb him or bring suit against his ownership or possession, nor will any incumbrance appear against it; and to the security and validity of all the foregoing, the vendor binds his property, presents and fortune, and with it submits himself to the authority and jurisdictions of the magistrates, who ought to take cognisance of their matters as a definitive sentence consented to, passed in authority of *res judicata*, and as such he receives it.

In testimony of which he thus granted it, and signed it before me and those of assistance, the witnesses to the instrument being Señor Inocente Garcia, Don Joaquin Estrada, and Don Henrique Dalby, present an residents, to which I certify, (on the part toward San Luis interlined.)

(Signed) JOSE MARIA VILLA.

Assisting witnesses:

(Signed) Francisco Estevan Quintara,

(Signed) J. Mariano Bonillo.

Copy of the original, made this day and authenticated by me, the auxiliary judge.

(Signed) JUAN MIGUEL PRICE.

No. 3.

Know all men by these, that I, José Maria Billa, of the county of San Luis Obispo, State of California, farmer, in consideration of one thousand dollars paid to me by Francisco E. Branch, of the county of

San Luis Obispo, State of California, farmer, (the receipt whereof is hereby acknowledged,) do give, grant, bargain, sell and convey unto the said Francisco E. Branch, his heirs and assigns, a certain tract or parcel of land with the buildings thereon, and all appurtenances and privileges to the same belonging, situated in said county of San Luis Obispo, and known as the "old house," lying on the Arroyo Grande, and bounded on all sides by the land of said Francisco Branch:

To have and to hold the above granted premises to the said Francisco E. Branch, his heirs and assigns, to his and their use and behoof forever.

And I, the said José Maria Billa, for myself and my heirs, executors and administrators, do covenant with the said Francisco Z. Branch, his heirs and assigns, that I am lawfully seized in fee simple of the aforegranted premises; that they are free from all incumbrances; that I have good right to sell and convey the same to the said Francisco Branch, his heirs and assigns forever, as aforesaid; and that he will, and my heirs, executors, and administrators shall, warrant and defend the same to the said Francisco Z. Branch, his heirs and assigns forever, against the lawful claims and demands of all persons.

In witness whereof, we, the said José Maria Billa and Rafaela Billa, wife of the said José Maria Billa, in token of her release of all right and title of or in the granted premises, have hereunto set our hands and seals, this 27th day of February, in the year of our Lord one thousand eight hundred and fifty-one.

(Signed) JOSE MARIA VILLAV'O,
Por mi esposa.
(Signed) RAFAELA RODRIGUEZ.
(Signed) Wm. L. Beebee,
(Signed) J. de Jesus Pico.

Personally appeared before me the 27th day of February, 1851, the aforenamed José Maria Billa and Rafaela Billa, his wife, and severally acknowledged the above conveyance to be their act and deed; and the said Rafaela Billa, being examined by me apart from her husband, acknowledged the she executed the same freely, without any fear of compulsion from her husband, and authorized her husband to sign the same for her; and I certify that I well know the said José Maria Villa and the said Rafaela Villa, and that they are the same persons who are described in the within conveyance, and who executed the same.

(Signed) S. A. POLLARD, *Recorder.*

I hereby certify that the words "and authorized to sign the same for her" were written previous to signing the above.

(Signed) S. A. POLLARD.

Filed in office, Dec'r 21st, 1852.

GEO. FISHER, *Sec'y.*

Sello Tercero, Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta, y mil ochocientos cuarenta y uno.

HIMENO. ANTONIO MARIA OSIO.

Revalidado para los años de 1842 y 1843.

ALVARADO. ANTONIO MA. OSIO.

[L. S.]

S'or Prefecto del 1er Distrito:

José Maria Villavo., natural del departamento de la Alta California, y capitan de milicia cibica del presidio de Monterey, ante V. S. en debida forma me presento y digo: ql. teniendo de mi legitimidad una cantidad suficiente de bienes se mavientes para la ocupacion de un sitio de ql. actualmente caresco, y sin el cual sera imposible el fomento de ellos pues; por el contrario pa peceran estrabio por verme obligados á ponerlos en terrenos de comunidad me hallo en la precisa necesitad de solicitar se me conceda en propiedad el parage nombrado el corral de piedra cuyo lugar pertenece al establecimiento de S'n Luis Obispo, y esta enteramente desacupado esepto de un corto numero de ganado branco, ql. hay en una de las partes de dicho sitio, el mismo que se comprende desde el arrayo que pasa por el pie del serrito ql. esta separado de la sierra hasta el Arroyo Grande, segun se demarca en el diseño respectivo que acompaño. Por tanto, á V. S. suplico se sirva acceder á esta mi peticion en caso de ser asi conveniente serviendose al mismo tiempo admitir esta en papel comun por falta del sellado correspondiente.

San Fernando, y Diciembre 20, de 1840.

JOSE MA. VILLAVICENCIO.

Ex'mo S'or:

Don José Maria Villavicencio, en la presente instancia, solicita de la bondad de V. E. se le confiera en propiedad el terreno conocido con el nombre de corral de Piedra, segun aparece por su diseño. Como esta prefectura esta al alcance de que no hay inconveniente por parte del establecim'to de San Luis, pa. la concesion del terreno ql. pretende Villavicencio pasa á los superiores manos de V. E. su informe sin necesidad de pederlo al encargado de dicho establecimiento. El reunir el solicitante á las cualidades ql. previene la ley, circunstancias bastantem'te recomendables, y servicios distinguidos cre esta prefectura ql. es acredor á toda la consideracion de sup'r gob., y por consig'te á ql. se le conceda la gracia que pretende mas V. E. con el acierte que le es genial se sirva resolver lo ql. fuere de su agrado.

San Juan de Castro, Fbro. 19, de 1841.

JOSE F. CASTRO.

MONTEREY, *Febro.* 27, *de* 1841.

Vista la peticion con ql. da principio este espediente el informe del s'or prefecto—

[Sello Tercero, Dos Reales.

Habilitado provicionalmente pr. la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

HIMENO. ANTONIO MARIA OSIO.

Revalidado para los años de 1842 y 1843.

ALVARADO. ANTONIO MARIA OSIO.]

[L. S.]

—del 1er distrito, con todo lo demas que se tuvo presente y ver conbino de conformidad con las leyes y reglamentos de la materia declaro á Don José Maria Villavicencio dueño en propiedad del terreno conocido con el nombre de Corral de Piedra, colindante al este con el Arroyo Grande, al O. E. con el arollito qe. esta al pié de la loma separada de la sierra, al norte con el Pinal, y al sur con los linderos qe. corren por una cuchilla donde se encuentran mananciales de brea. Estiendose el correspondiente despacho tomese razon en el libro respectivo y dirijase este esped'te á la ex'ma junta departamental. El S'or Dn. Juan Bta. Alvarado, gob'r constitucional del departam'to de las Californias, asi lo mandé, decreté y firmé, de que doy fée.

ALVARADO.
MANUEL JIMENO, *S'rio.*

Es copia fielmente sacada de los documentos originales qe. existen en la secretaria de gob'r qe. esta en mi cargo.

Monterey, Julio 2, de 1842.

MAN'L JIMENO.

[L. S.]

El que subscribe secretario del gobierno del departamento de las Californias.

Certifica: Que el diseño que se demuestra á la vuelta, es igual al original que existe en la secretaria de mi cargo.

Monterey, 21 de Julio, de 1842.

MAN'L JIMENO.

La presente certificacion va en papel comun por falta del sellado.

JIMENO.

[*For map see original, page* 18.]

"*B.*"—*Translation of Espediente.*

Stamp Third, Two Reales.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years one

Ks. Laurentius Nicolai

thousand eight hundred and forty, and one thousand eight hundred and forty-one.

(Signed) ANTONIO MARIA OSIO.
(Sgd.) HIMENO.

[Maritime custom-house of Monterey.]

Good for the years 1842 and 1843.

(Signed) ANTONIO MARIA OSIO.
(Sgd.) ALVARADO.

To the Prefect of the First District:

José Maria Villavicencio, native of the department of upper California, and captain of the militia of the presidio of Monterey, present myself in proper manner before your honor, and represent: That being lawful owner of a sufficient quantity of self-moving (semovientes) property for the occupation of a place which I actually need, and without which it will be impossible to take care of it, but on the contrary it will wander off, as I will be forced to put it on common lands, I am under the necessity of requesting that the place be granted to me named the "Corral de Piedra," which belongs to the establishment of San Luis Obispo, and is entirely unoccupied, except that there are a small number of wild cattle on one part of said land; the same is included between the arroyo which passes by the foot of the Cenito, which is separated from the sierra and the Arroyo Grande, as shown by the map of it, which I transmit herewith.

Wherefore I pray your honor, be so good as to accede to my petition if convenient, being pleased at the same time to admit this on common paper, there being none of the proper stamp.

San Fernando, December 20th, 1840.

(Signed) JOSE MA. VILLAV'O.

Most Excellent Sir:

Don José Maria Villavicencia, in the present instance, prays of your excellency's goodness, that the land known by the name of Corral de Piedra may be granted him in fee, as appears by his map; as this prefectura sees there is no difficulty on the part of the establishment of San Luis Obispo to granting the land which Villavicencia solicits, it passes his statement to the lands of your excellency, there being no necessity of asking information of the person in charge of that establishment, as the petitioner unites with the qualities required by law, commendable behaviour and distinguished services; this prefectura believes him to be entitled to all the consideration of the superior government, and consequently the favor which he asks be granted to him; but your excellency, with your usual judgment, will be pleased to decide that which may be your will.

San Juan de Castro, February 19th, 1841.

(Signed) JOSE F. CASTRO.

MONTEREY, *February 27th*, 1841.

Having seen this petition with which this espediente commences, the report of the prefect of the 1st district, with all other information which was presented and deemed proper in conformity with the laws and regulations on the matter, I declare Don José Maria Villav'o owner in fee of the land known by the name of Corral de Piedra, bounded on the east by the Arroyo Grande, on the west by the little arroyo which is at the foot of the hill separated from the sierra, north by the Pinal, and south the boundary follows along a ridge, where are found springs of brea; let the corresponding title be made out; take note of it the proper book, and direct this espediente to the most excellent departmental junta. Señor Don Juan Bautista Alvarado, constitutional governor of the department of the Californias, thus ordered, decreed, and signed, which I certify.

(Signed) ALVARADO.
(Sgd.) MANUEL JIMENO, *Secretary*.

This copy is faithfully made from the original documents, which exist in the secretary's office of the government, which is under my charge.

Monterey, July 2nd, 1842.
(Signed) MANUEL JIMENO.

Filed in office, April 20th, 1852.
GEO. FISHER, *Sec'y*.

Document No. 5, annexed to the Deposition of Pablo de la Guerra.

Demarcacion de S. Luis Obispo en jurisdicion de Monterey.—Año de 1842.

Expediente formado en la posecion juridica q. se dio á D. José Maria Villa. del terreno llamado Corral de Piedras.

Sello 1o, Seis Pesos.

Habilitado provisionalmente por la aduana maritima de Monterey, pa. los años de 1839 y 1840.

ALVARADO. ANTONIO MA. OSIO.

[Ad'a mar'ta de Mont'y. Place of the Eagle.]

Valga pa. los años 1841 y 1842.

ALVARADO. ANTONIO MA. OSIO.

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias.

Por cuanto el ciudadano José Maria Villavicencio ha pretendido pa. su beneficio personal y el de su familia el terreno conocido con el nombre de Corral de Piedra, colindante al este con el Arroyo Grande, al oeste con el arroyito qe. esta al pieda de la loma separada de la sierra, al norte con el Pinal, y al sur con los linderos qe. corren por una cañada donde se encuentran mananciales de brea; practicadas pre-

viam'te las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos; usando de las facultades qe. me son conferidas á nombre de la nacion Mejicana, he venido en concederle el terreno mencionada, declarandole la propiedad de el por las presentes letras sugetandose á la aprobacion de la ex'ma junta departamental, y á las condiciones siguientes:

1a. Podra cercarlo, sin perjudicar las travesias, caminos y servidumbres, lo disfrutara libre y esclusivamente, destinandolo al uso ó cultivo que mas le acomode. Pero dentro de un año fabrica casa y estará habitada.

2a. Solicitara del juez respectivo que le de posecion juridica en virtud de este despacho, por el cual se demarcaran los linderos en cuyos limites pondrá a mas de las mojoneras algunos arboles frutales, ó silvestres de alguna utilidad.

3a. El terreno de que se hace mencion es de dos sitios de ganado mayor, poco mas ó menos segun esplica el diseño, que corre en el espediente respetivo. El juez que diere la posecion lo hará medir conforme á ordenanza que dando el sobrante que resulte á la nacion para los usos convenientes.

4a. Si contraviniere á estas condiciones perderá su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose, por firma y valedero este titulo se tome razon de el en el libro á que corresponde, y se entregue al interesado, para sus resguardo y demas fines.

Dado en Monterey, á catorce de Mayo, de mil ochocientos cuarenta y uno.

JUAN B. ALVARADO.

Queda tomado razon de este despacho en el libro de asientos sobre adjudicaciones de terrenos valdios, á fa.

El ex'mo s'or gobernador ha dispuesto se tome razon de este titulo en la prefectura del 1er. distrito.

Sello Tercero, Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarento y uno.

ALVARADO. ANTONIO MA. OSIO.

[Ad'a marit'a de Monterey. Place of the Eagle.]

Revalidado por la misma, para el año de mil ochocientos cuarenta y dos.

ALVARADO. ANTONIO MA. OSIO.

S'or Juez de Paz de S. Luis Obispo:

José Ma. Villa., natural de este departamento, ante V. como mejor proceda digo: Que en virtud del titulo de concesion que se me ha es-

pedido de terreno llamado corral de Piedra, en la demarcacion de su cargo y cullo original acompaño se sirva darme posecion juridica del mencionado terreno, conforme al diseño que tambien acompaño y señalar dia en que se verifiquen las medidas y senalam'to de lindes. P. T., á V. suplico se sirva acceder á mi solicitud q. en ello recibire gracia y justicia; y juro, &c.

JOSE MA. VILLAV'O.

SAN LUIS OBISPO, *Sept.* 1*o*, 1842.

Por presentado y admitido como lo pide pa. el dia 3 del corriente, previa citacion de las colindantes se dará la posecion juridica del terreno que se ha concedido al interesado verificando las medidas del d'ho, yo, el juez de paz de esta demarcacion, asi lo decreté y firmé.

BONILLA.

SAN LUIS OBISPO, *Sept.* 1*o*, *de* 1842.

Citese á los colindantes pa. ql. concurran el dia mencionado en el auto anterior al rancho del corral de Piedra, haciendo les saber el objeto de su llamada. Yo, el juez de paz de esta demarcacion, asi lo mande y firme.

BONILLA.

S'N LUIS OBISPO, *Sept.* 2, *de* 1842.

Con esta fecha se citaron pr. voletas á D. José Ortega y D. Francisco Branch, pa. ql. mañana concurran al rancho del corral de Piedra, á las nueve de la mañana á presencion las medidas de d'ho rancho, y acto de posecion juridica; lo cual acente, por diligencia que rubrique.

En el rancho de corral de Piedra, á las tres dias del mes de Sept'r, del año de mil y ochocientos cuarenta—

[Sello Tercero, Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamiento de las Californias, pa. los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

ALVARADO. ANTONIO MA. OSIC.

[Ad'a mart'a de Mont'y.
Place of Eagle]

Rehabilitado por la misma, para el año de mil ochocientos cuarenta y dos.

ALVARADO. ANTONIO MA. OSIO.]

—y dos siendo presente, yo, el juez de paz de esta demarcacion de S. Luis Obispo, en la casa de habitacion de Dn. José Ma. Villav'o, llega á ella D. José Ortega, pa. la citacion ql. se le hizo y lo asente, por diligencia ql. rubrique.

Incontinenti en el mismo parage, dia, mes y año, yo el juez de paz de la demarcacion de S. Luis Obispo, acompañado de los de asistencia

y siendo presente Dn. José Ma. Villavicencio, despuse nombrar dos medidores cordeleros, por falta de un perito agrimensor, y al efecto nombre de las concurrentes á los individuos, Pedro Mesa y Manuel Pazos, á quienes habiendo aceptado el encargo les tome juram'to ql. hicieron, por Dios n'tro Sr., y la S'ta Cruz, de desempeñar fielmente su nombramiento y lo asente, pr. diligencia que firme, con los de assist'a.

J. MARIANO BONILLA.

De asist'a: JOSE ORTEGA,
De asist'a: VICENTE BONILLA.

En seguida, en el mismo parage, dia, mes y año, yo el juez de paz de esta demarcacion de S. Luis Obispo, con los de mi asist'a, dispuse ql. se midiera un cordel de cincuenta varas pa. con el efectuar la medida del terreno, y al efecto se medio un cordel de cerda de cuenta varas castellanas, y en sus estremas ataran das estacas y asente esto p'r diligencia, que firme con los de asist'a.

J. MARIANO BONILLA.

De asist'a: JOSE ORTEGA,
De asist'a: VICENTE BONILLA.

A continuacion en el mismo paraje, dia, mes y año, yo el juez de paz de la demarcacion de S. Luis Obispo, acompañado de los de asist'a y concurientes y citados con el objeto de comenzar las medidas salimos de la casa de habitacion de D'n José Ma. Villa., y fuimos h'ta el punto en q. p'r el diseño se seña la el lindero con D'n José Ortega en el Arroyo Grande y siendo marcado d'ho lugar con el nombre de paso de Nipomo, tomando los medidores el cordel p'r sus extremos y estacas se comenzo á medir p'r la vega del arroyo, en direction al E. h'ta el pié de la sierra y angostura del monte cuyo punto se señalo con un palo que se fijo en el y h'ta alli se contaron ciento y cincuenta cordeles continuando las medidas de alli por la falda y media altura de d'ha sierra, en direccion al N. O. h'ta el punto que señala el diceño como lindero con el establecim'to de S. Luis Obispo, cuyo punto siendo marcada p'r un serrito q. se haya en el llano se señado tambien y se contaron h'ta alli dos cientos cordeles, se siguieron las medidas desde d'ho serro rumbo al S. h'ta las lomas montuosas y ensinal y regresando del mismo serro al pie de la sierra grande obajo de los pinos y en ambor partes unidas se midieron ciento y cincuenta cordeles, y habiendose señalado los dos extremos con unos palos que se figaron se siguieron las medidas p'r toda la cuchilla que linda con el sitio de D. José Ortega, h'ta el punto en donde se comenzaron y fueron h'ta alli medidos doscientos cordeles, con lo cual fueron concluidas d'has medidas y señaladas los terminos y linderos quedando el terreno comprendido bajo la circumferencia de selecientos cordeles de á cincuenta varas á siete leguas. Concluidas de este modo las referidas medidas y siendo conforme los colindantes, no habiendo oposicion p'r ninguno p'r perfectionar el acto en presencia de todos las concurrentes tomé p'r la mano á D. José Ma.

Villa. y en voz clara le dije: En nombre de la nacion Mejicana, doy á V. posesion del terreno que se le ha concedido y que a hora se ha medido; y mandandole, que hiciese alguna demonstracion de haber adquirido el dominio util y directo y con tal la propiedad de d'ho terreno como s'r y dueño unico de el cavo la tierra arrancó yerbas y tiró piedras, con lo cual se concluyo el acto, habiendo pedido á esta tiempo D. José Ma. Villa que se le entregasen estas diligencias originales pa. cuya constancia lo firme con los de asistencia.

J. M'NO BONILLA.

De asist'a: JOSE ORTEGA,
De asist'a: VICENTE BONILLO.

SAN LUIS OBISPO, *Septe.* 3, *de* 1842.

Devuelvan estas diligencias originales al interesado pa. testimonio de adquisition de propiedad, y el uso ql. le convenga, y tomese razon en el libro correspond'te.

BONILLA.

S. LUIS OBISPO, *Septe.* 9, *de* 1842.

Atendido el auto antecedente con esta f'ha se devolvio á D. José Ma. Villa, este expediente en 6 fs., y lo asente pr. diligencia ql. rubrique.

S. LUIS OBISPO, *Septe.* 9, *de* 1842.

Queda tomada razon en el libro de poseciones á fs. 10, 11, 12, y v'ta.

BONILLA.

Filed in office, Sept. 9th, 1852.

GEO. FISHER, *Sec'y.*

"D."—Translation of Title.

Stamp First, Six Dollars.

Provisionally authorized by the maritime custom-house at Monterey, for the years 1839 and 1840.

(Sgd.) ALVARADO,
(Sgd.) ANTONIO MA. OSIO.

[Maritime custom-house of Monterey.]

Good for the years 1841 and 1842.

(Sgd.) ALVARADO.
(Signed) ANTONIO MARIA OSIO.

Juan B. Alvarado, Constitutional Governor of the Department of the Californias:

Whereas, citizen José Maria Villavicencio has for his own personal benefit, and that of his family, petitioned for the land known by the name of "Corral de Piedra," bounded on the east by the "Arroyo Grande;" west by the arroyito which is at the foot of the hill separated from the sierra; north by the pine woods, and south by the boundaries,

pass through a cañada where are springs of brea; the necessary measures and examinations having previously been made, as required by laws and regulations; using the faculties conferred on me in the name of the Mexican nation, I have granted him the aforesaid land, declaring to him the ownership of it by these presents, subject to the approval of the most excellent departmental junta, and the following conditions, to wit:

1st. He may enclose it without prejudice to the crossings, roads and servitudes, and enjoy it freely and exclusively, making such use and cultivation of it as he may see fit, but within one year he will build a house on it and it shall be inhabited.

2nd. He shall request the proper magistrate to give him juridical possession of it in virtue of this order, by whom the boundaries shall be marked out, in which he shall place, besides the bounds, some fruit or forest trees of a useful character.

3rd. The land here mentioned is two sitios de ganado mayor, (two square leagues for grazing large cattle,) a little more or less as shown by the map which goes with the proper espediente. The magistrate who may give the possession will cause it to be measured, in conformity with the ordinance, leaving the surplus which may result to the nation for its convenient purposes.

4th. If he shall contravene these conditions he shall lose his right, and it may be denounced by another.

In consequence I order, that this title being held as firm and valid, note be taken in the corresponding book and it be delivered to the person interested for his security and other purposes.

Given in Monterey, the fourteenth day of May, one thousand eight hundred and forty-one.

(Signed) JUAN B. ALVARADO.

Note has been taken of this order in the book of entries of grants of vacant lands at folio .

His excellency the governor has directed that note be taken of this title in the prefectura of the first district.

Filed in office, April 20th, 1842.

GEO. FISHER, *Sec'y*.

Stamp Third, Two Reales.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of Californias, for the years one thousand eight hundred and forty, and one thousand eight hundred and forty-one.

(Signed) ANTONIO MA. OSIO.

(Signed) ALVARADO.

[Maritime custom-house of Monterey.]

Good for the years one thousand eight hundred and forty-two.

(Sg'd) ANTONIO MA. OSIO.

(Signed) ALVARADO.

To the Justice of the Peace of San Luis Obispo:

José Maria Villa, native of this department, before you appears and says, that in virtue of the title of grant which has been issued to him of the land called "Corral de Piedra," in the demarcation under your charge, and the original of which he transmits herewith, you will have the goodness to give me the juridical possession of the said land, conformably with the map which I also transmit, and to designate a day on which to verify the measurements, marking out of boundaries. Therefore, I pray you be pleased to grant my request, in which I will receive favor and justice; I swear in the legal form, &c.

(Signed) JOSE MARIA VILLAV'O.

San Luis Obispo, *Sept.* 1*st*, 1842.

Presented and admitted agreeably with this request on the 3d instant, the colindantes being previously summoned, juridical possession will given of the land which has been granted to the interested party, verifying the measurements of said (land.) I, the justice of the peace of this demarcation, thus decreed and signed.

(Signed) BONILLA.

San Luis Obispo, *September* 1, 1842.

Let the colindantes be summoned to meet on the day mentioned in the preceding order, at the rancho of the "Corral de Piedra," letting them know the object for which they are summoned. I the justice of the peace of this demarcation, thus decreed and signed.

(Signed) BONILLA.

San Luis Obispo, *Sept.* 2*nd*, 1842.

On this day written summons were issued to Don Francisco Branch and Don José Ortega, that *that* they may meet to-morrow at the rancho of the "Corral de Piedra" at nine o'clock in the morning, to be present at the measurement of said ranch, and the act of juridical possession, which I officially noted and signed in rubric.

(Rubric of Bonilla.)

On the rancho of the "Corral de Piedra," on the third day of the month of September, of the year one thousand eight hundred and forty-two, present, I, the justice of the peace of this demarcation of San Luis Obispo, in the dwelling-house of Don José Maria Villa, Don José Ortega arrived there in compliance with the summons sent him, and I note it officially and signed in rubric.

(Rubric of Bonilla.)

Immediately afterwards, in the same place, day, month and year, I, the justice of the peace of the demarcation of San Luis Obispo, accompanied by those of my assistance, and being present D. José Ma. Villa, I decided to appoint two measuring rope-bearers for want of a skilful surveyor, and I appointed, from the by-standers, the individuals Pedras Mesa and Manuel Paros, and having accepted the office,

I required an oath from them, which they took, by God our Lord and the holy cross, to discharge faithfully their appointment; and I made official note of it and signed with the assisting witnesses.

(Signed) J. MANUEL BONILLA.

Assisting witnesses:
(Sg'd) JOSE ORTEGA,
(Sg'd) VICENTE BONILLA.

Then, in the same place, day, month and year, I, the justice of the peace of the demarcation of San Luis Obispo, with those of my assistance, directed that a hair rope should be measured of fifty varas long, with which to make the measurement of the land, and for this purpose a hair rope was measured of fifty Spanish varas, and at its extremities two stakes were tied, and I noted this officially, which I signed with the assisting witnesses.

(Signed) J. MARIANO BONILLO.

Ass't witnesses:
(Sgd.) JOSE ORTEGA,
(Sgd.) VICENTE BONILLA.

In continuation, in the same place, day, month and year, I, the justice of the peace of the demarcation of San Luis Obispo, accompanied by the assisting witnesses and the persons present before named, for the purpose of commencing the measurements, we left the dwelling-house of D. José Ma. Villa, and went to the point which is shown on the map to be the boundary with D. José Ortega, in the Arroyo Grande, and said place being designated by the name of "Paso de Nipono," the measurers, taking the cord by its extremities and stakes, commenced to measure up the plain of the arroyo in an easterly direction, to the foot of the sierra and narrow pass in the hills, and marked with a stake, distant one hundred and fifty cordeles; thence continuing the measurement, halfway up the slopes of said sierra, northwest to the point marked on the map as boundary with the establishment of San Luis Obispo, which place is marked by a cenito situated in the plain, distant two hundred cordeles; they then measured from said cen'o southerly to the wooded hills and grove of oaks, and going back from the same cen'o to the foot of the high sierra below the pines; in both parts together they measured one hundred and fifty cordeles, and having marked the two extreme points with stakes which were driven, the measurements were continued along the ridge, boundary with the place of Don José Ortega, to the place of beginning, distant two hundred cordels, with which the measurements were concluded and the boundaries designated; the land being included within boundaries, the sum of the length of which is seven hundred cordels of fifty varas each, or seven leagues; the measurements being finished in this manner, and the colindantes agreeing, and there being no opposition, to perfect the act, in presence of all the bystanders, I took Don José Maria Villa by the hand, and in a loud voice said to him: In the name of the Mexican nation I

give you possession of the land which has been granted you, and which has now been measured, and directing to make some demonstration of having acquired the useful and direct dominion, and with it the ownership of said land, as the only owner and lord of it, he dug up earth, pulled up grass and threw stones, with which the act was finished. Don José Maria Villa at this time asked that the original official documents be delivered to him; in testimony of which I signed with the assisting witnesses.

(Signed) J. MARIANO BONILLA.

Ass't witnesses:

(Sgd.) JOSE ORTEGA,

(Sgd.) VICENTE BONILLA.

SAN LUIS OBISPO, *Sept. 3d*, 1842.

Let the original official documents be delivered to the party interested, in testimony of acquisition of ownership, and the use he may think proper, and let note be taken in the corresponding book.

(Signed) BONILLA.

SAN LUIS OBISPO, *Sept. 5th*, 1842.

In compliance with the preceding order, on this day this expediente was delivered to Don José Maria Villa., in 6 folios, and I made official note of it, which I signed in rubric.

(Rubric of Bonilla.)

SAN LUIS OBISPO, *Sept. 5th*, 1842.

Note has been taken in the book of possessions, at folios 10, 11, 12, and over.

(Signed) BONILLA.

Filed in office, April 20th, 1852.

GEO. FISHER, *Sec'y.*

Secretario del.

[Gobierno del Despacho de Californias.
Place of Eagle.]

Al espediente promovido por V'l en 14 de Junio, de 1844, con relacion al aumento de terreno que solicita en el parage que posée llamado corral de Piedra, ha recayado hoy el superior decreto siguiente:

"ANGELES, *Mayo* 28, *de* 1846.

"Habiendo hecho constar D'n José Maria Vallavicencio que el terreno llamado corral de Piedra, en el pueblo de San Luis Obispo, que le fue concedido por el superior gobierno departamental en titulo librado en 12 Julio, de 1843, tiene mas estension de das sitios de ganado mayor que poco, mas ó menos se le adjudicaron al agraciado y que de todo lo cual fue posesionado conforme al diseño, por aparecer en el referido titulo de demarcacion de linderos con arreglo al mismo diseño; mandadas practicar las averiguaciones concernientes para venirse en

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conocimiento de todo lo que era necesario y debia tenerse presente, resulto que no hay lesion ni perjuicio de tercero que mejor derecho tenga; por todo lo cual, visto y considerado todo lo que meditar y ver convino, he venido por el presente decreto en declarar como declara, legal y bien dada la posesion judicial que del mencionado parage corral de Piedra, se verifico p'r la autoridad en tres de Setiembre, de 1842, en toda la estencion que demuestra el diseño, siendo ser D'n José Maria Villavicencio diceño en propiedad. En consecuencia libresele por la secretaria el testimonio de esta determinacion, pongase esta diligencia en el correspondiente expediente que justifica su derecho; tomese razon en el libro de acientos agregando este expediente autagrafa y sometase á la provacion de la ex'ma asamblea departamental. Pio Pico, gobernador constitucional del departamento de California, asi lo dispusó, decreto y firmó, de lo que doy fée.

PIO PICO.
JOSE MATIAS MORENO,
Secretario Interino.

Y lo incierto á V'l para su seguridad y fines que le sean consiguientes, ofreciendole á la vez mi sincero oprecio. Dias y libertad!

Angeles, Mayo 28, de 1845.

JOSE MATIAS MORENO,
S'rio Interino.

S'or D'n José Ma. Villivicencio,
Presente.

"*H.*"—*Translation of Espediente.*

Secretary's Office.

[Gov't of Dep't of the Californias.]

In answer to your espediente of the fourteenth of June, 1844, relative to addition of land which you solicit in the place you own, called "Corral de Piedra," the following superior decree has this day been made:

Angeles, *May 28th*, 1846.

Don José Maria Villavicencio, having shown that the land called Corral de Piedra, in the pueblo of San Luis Obispo, which was granted him by the superior departmental government, in the title dated July 12th, 1842, contains more than the two sitios de ganado mayor, (two sq. leagues for grazing large cattle,) which, a little more or less, were granted to him, and of the whole of which he was put in possession in conformity with the map, because the boundaries were designated in the title agreeable with the same map, having ordered the necessary examinations to be made, to arrive at the knowledge of all that was necessary to be known, it resulted that there was no danger or prejudice to any other who might have a better right; therefore, having seen and considered all that ought to be seen and considered, I have determined to declare, as by this present decree I do declare, legal and properly given the

judicial possession of the said place "Corral de Piedra," which was verified by the proper authority on the 3d of September, 1842, in the extent which the map shows, Señor Don José Maria Villavicencio being owner in fee. In consequence let the secretary make out the testimony of this determination; let this document be put with the espediente which proves his right; let note be taken in the book of entries, attaching this to the autograph espediente, and let it be submitted to the approbation of the most excellent departmental assembly. Pio Pico, constitutional governor of the department of Californias, thus ordered, decreed, and signed, which I certify.

(Signed) PIO PICO.
(Sgd.) JOSE MATIAS MORENO,
Secretary "ad interim."

And I enclose it to you for your security, and the purposes you may find convenient, offering at the same time my sincere esteem. God and liberty!

Angeles, May 28th, 1846.

(Signed) JOSE MATIAS MORENO,
Secretary ad interim.

For Don Jose Ma. Villavicencio,
E. Presente.

Filed in office, April 20th, 1852.

GEO. FISHER, *Sec'y.*

Opinion.

José Maria Villavicencio
vs.
The United States.

For the place called "Corral de Piedra," containing two square leagues of land situated in San Luis Obispo county.

This claimant has introduced in this case a traced copy of the espediente, showing his application for the grant on the 20th of December, 1840, and an order of concession on information taken by Governor Alvarado on the 27th of February, 1841. He has also given in evidence the title-paper for the land, issued May 14, 1841, subject to the approval of the departmental assembly, and the usual conditions.

The testimony of Andres Pico shows that the claimant first occupied the premises in 1841 with cattle and horses, and sowed a part of the land; that he began to build a house the same year, and has lived in it ever since.

This proof is sufficient to show a compliance with the condition relative to settlement and cultivation.

The record of juridical possession is also introduced, duly authenticated, showing that the party was officially put in possession of the premises claimed September 3d, 1842.

In addition to the above documentary evidence, a copy of and order made by Governor Pio Pico on the 28th May, 1846, is given in evidence, in which it is stated that it had been represented by the claimant that the land, of which he had been put in juridical possession under the grant above mentioned, was found to contain more than two square leagues; that the governor had investigated the matter, and having found that no injury would result to any one from it, he entered his decree declaring properly given the judicial possession of said place, to the extent appearing on the map, and ordered this decree to be attached to the espediente on which the original concession was made, and to be transmitted therewith to the departmental assembly for approval.

The juridical survey, as returned in the record of it, seemed fair and regular. The exterior lines of the premises measured out to the claimant under his grant are given, and the lines are certified to have been actually run; we can ascertain from the record the quantity of land thus assigned to the claimant, and it appears to be, as near as such a survey could make it, the quantity of two square leagues. If there was any excess over that quantity it was so inconsiderable as to deserve no consideration and to affect no rights.

Without the order intended to quiet the possession of the claimant to the land thus surveyed, the case would present no difficulty in this respect. The evidence would show a juridical survey of the land, as called for in the concession, and the proper quantity set apart to the grantee, and we should find *and we should find* no difficulty in confirming it to the claimant according to that survey.

This is the case as presented by the record. It will often happen that on re-surveying land with more perfect instruments, and under more favorable circumstances, inaccuracies are to be found, and the quantity surveyed proves to be more than reported in the first instance. The parties appear to have ascertained that there was such excess in this survey. The record of a juridical possession duly proved is prima facia evidence of the correctness of the statements contained in it, and must be regarded as entirely accurate, until the contrary be shown.

Nor will a slight variation impair the efficacy of such a segregation of the land as the property of the grantee under his title. Fraud or gross error might destroy the efficacy of such an act, and enable the party in interest to set aside the survey, but in the case before us there is no evidence of fraud or error in fact, and the official documents show neither a corrupt design nor any gross mistake making the measurements. If the case then stood before us without the sanction to the claimant's rights contained in the decree of May 28, 1846, we should confirm the claim agreeably to the official measurement. That decree ratifying the claimant's right cannot have the effect to defeat his claim. It certainly cannot, unless the statement that the land comprised in the juridical measurement embraced more than two square leagues has that effect. But the statement does not imply that there had been either

the commission of a fraud or any possible gross error which would vitiate the assignment of the lands by the official act. The discrepancy would seem to be one arising from an error such as will often happen in surveys in a new country, and especially where the method was rude and uncertain as that which characterized these transactions in California. The governor acted on this representation of the claimant, that there was an excess of land included in his boundaries, and by his decree declares that possession to be legally and properly given, with a view to a concession of all the land within the survey. This I think he had a right to do. It is not the case of a new grant of land, to be given to the grantee by metes and bounds, and the questions which might arise in case of an addition of that character to land held under a previous grant are not here presented. It is not an order for such a grant. The papers did not form a new espediente in case of an independent grant, but were expressly ordered by a clause contained in the decree to be made a part of the espediente in the case of the former concession, and to go with it to the departmental assembly.

At that time the claimant had acquired no legal title to his land; his grant had not then received the sanction of the departmental assembly; it had still to have the approval of that body or the supreme executive of Mexico to be valid, and it was also still within the control of the governor to refuse to complete the grant of the fee. If in truth a mistake was found in giving the juridical survey of the land, by which a larger quantity was embraced in the measurement than was contemplated by the conditional title papers, I have no doubt of the power of the governor to take the initiatory by an order to embrace the whole within the concession.

By adding the documents containing the proceedings for this purpose to the espediente, the whole proposition would be sent to the departmental assembly for their approval; if they approved, the whole would form but a single grant, the evidence of which might be issued by the governor to the grantee, with the boundaries specified according to the measurement; and if it was competent for the governor thus to act, and a reasonable expectation existed that the assembly would ratify the concession on his part, must be regarded by us as an inceptive, the incomplete title to the entire premises, which may be confirmed as an equitable right by this concession.

Neither the papers in the case of the original application for the grant, nor the proceedings in reference to the concession of all the lands embraced within the juridical measurement, were ever presented, so far as we know, to the departmental assembly for approval. All remained at the time of the cession of the country inchoate and incomplete.

We see nothing in the case to raise a doubt that the departmental assembly would have approved the whole claim according to the views of the governor, as expressed in his two decrees, if the case had been laid before them. In this case a petition of intervention was filed by Francisco Branch on the 21st December, 1852, alleging that he had purchased of Villavicencio *to* several tracts of land within the boundaries

of this grant, and praying that his claim of intervention in the case may be allowed, and that the tracts of land described in the conveyances from the claimant to him may be confirmed; I have no hesitancy in saying that a claimant, who desires a confirmation of land to which he claims title, must file his original petition for that purpose, and cannot with propriety intervene under the claim of another in order to obtain a confirmation to himself.

The inconveniences of such a rule of practice, and the evident departure of such a proceeding from the course contemplated by the provisions of the law, which *which* provides for the investigation of these land titles before this commission has caused this practice to be abandoned by the common consent of all parties, who participate in these investigations.

Whatever right Mr. Branch may have in the premises in question, he could not then prosecute them, by filing a petition for intervention in the case, but should proceed in the ordinary manner, by original petition, to obtain a confirmation. Two deeds were presented by him on the hearing of the case which were submitted, subject to the question of the right of the intervenor thus to seek a confirmation to himself. As the opinion of the commission is adverse to such a claim, the testimony was inadmissible and cannot be regarded as in the case.

The claimant is entitled to a confirmation.

Decree of Confirmation.

JOSE MARIA VILLAVICENCIO } vs. THE UNITED STATES. }

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the said claim of the petitioner is valid, and it is therefore hereby decreed that the same be confirmed.

The lands of which confirmation is hereby made are called by the name of "Corral de Piedra," being situated in San Luis Obispo county, and the same on which said claimant resides, and bounded and described as follows, to wit, beginning at a point in the boundary with Don José Ortega, in the Arroyo Grande, at the place designated by the name of "Pasa de Nipomo;" thence running up the plain of the arroyo in an easterly direction seven thousand five hundred varas to the foot of the sierra and narrow pass of the hills, to a stake placed as a boundary; thence halfway up the slope of said sierra northwest ten thousand varas, to a point in the boundaries with the establishment of San Luis Obispo, which place is marked by a cenito situated in the plain; thence from said cen'o southwardly to the wooded hills and grove of oaks, and going back from the same cen'o to the foot of the high sierra, below the pines, to a stake driven as a boundary, both of said lines together being seven thousand and five hundred varas; thence along the ridge boundary, with the place known as the place of Don José Ortega, ten thousand varas to the place of beginning, containing two square leagues of land, be the same more or less. Reference for

the commission of a fraud or any possible gross error which would vitiate the assignment of the lands by the official act. The discrepancy would seem to be one arising from an error such as will often happen in surveys in a new country, and especially where the method was rude and uncertain as that which characterized these transactions in California. The governor acted on this representation of the claimant, that there was an excess of land included in his boundaries, and by his decree declares that possession to be legally and properly given, with a view to a concession of all the land within the survey. This I think he had a right to do. It is not the case of a new grant of land, to be given to the grantee by metes and bounds, and the questions which might arise in case of an addition of that character to land held under a previous grant are not here presented. It is not an order for such a grant. The papers did not form a new espediente in case of an independent grant, but were expressly ordered by a clause contained in the decree to be made a part of the espediente in the case of the former concession, and to go with it to the departmental assembly.

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The claimant is entitled to a confirmation.

Decree of Confirmation.

JOSE MARIA VILLAVICENCIO
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the said claim of the petitioner is valid, and it is therefore hereby decreed that the same be confirmed.

The lands of which confirmation is hereby made are called by the name of "Corral de Piedra," being situated in San Luis Obispo county, and the same on which said claimant resides, and bounded and described as follows, to wit, beginning at a point in the boundary with Don José Ortega, in the Arroyo Grande, at the place designated by the name of "Pasa de Nipomo;" thence running up the plain of the arroyo in an easterly direction seven thousand five hundred varas to the foot of the sierra and narrow pass of the hills, to a stake placed as a boundary; thence halfway up the slope of said sierra northwest ten thousand varas, to a point in the boundaries with the establishment of San Luis Obispo, which place is marked by a cenito situated in the plain; thence from said cen'o southwardly to the wooded hills and grove of oaks, and going back from the same cen'o to the foot of the high sierra, below the pines, to a stake driven as a boundary, both of said lines together being seven thousand and five hundred varas; thence along the ridge boundary, with the place known as the place of Don José Ortega, ten thousand varas to the place of beginning, containing two square leagues of land, be the same more or less. Reference for

further description of said premises to be had to the testimonial of juridical survey, and the map attached thereto, which are on file in this case.

ALPHEUS FELCH,
R. AUG. THOMPSON,
THOMPSON CAMPBELL,
Commissioners.

Filed in office, Nov'r 15th, 1853.

GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle private land claims in the State of California.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing fifty pages, numbered from 1 to 50, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 190 on the docket of the said board, wherein José Maria Villavicencio is the claimant against the United States, for the place known by the name of "Corral de Piedra."

In testimony whereof, I hereunto affix my private seal, (not having a seal of office,) at San Francisco, California, this
[SEAL.] twenty-second day of August, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

(Signed) GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.
CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing fifty-one pages, numbered from 1 to 51, both inclusive, contain a full, true, and correct copy of transcript in case No. 45, filed in my office, wherein José Maria Villavicencio is appellee, and the United States are appellants, for Corral de Piedra.

In testimony whereof, I have hereunto set my hand and af-
[SEAL.] fixed the seal of said court, at Los Angeles, California, this 17th day of March, A. D. 1856.

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

JOSE MA. VILLAVICENCIO, appellee, ads. THE UNITED STATES, appellants. } Docket No. 45. Transcript No. 190.

Be it remembered, that on the 26th day of August, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit: a duly certified transcript of the proceedings and decision of the commission to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein José Ma. Villavicencio is the claimant against the United States, for the place named "Corral de Piedra," was received and filed, and docketed with No. 45, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *Dec. 5th*, 1854.

In same case, notice of appeal from the decision of land commission filed.

(Vide page 1.)

LOS ANGELES, *Jan'y 5th*, 1855.

In same case, petition for review filed.

(Vide page 2.)

LOS ANGELES, *April 11th*, 1855.

In same case, the answer of claimant was filed.

(Vide page 10.)

LOS ANGELES, *Oct. 11th*, 1855.

In same case, notice of hearing by U. S. dist. att'y was filed.

(Vide page 13.)

LOS ANGELES, 1855.

In same case, order granting leave to take further evidence filed.

(Vide page 13.)

LOS ANGELES, *Oct. 19th*, 1855.

In same case, a document purporting to be a translation of document on page 17, of transcript from land commission, filed.

(Vide page 14.)

LOS ANGELES, *Jan'y 10th*, 1856.

In same case, the following decree was filed.

(Vide page 15.)

LOS ANGELES, *Mch. 7th*, 1856.

In same case, order of appeal to Supreme Court was filed.

(Vide page 16.)

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
WASHINGTON, *26th October*, 1854.

JOSE MARIA VILLAVICENCIO
vs.
THE UNITED STATES.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle the private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office, on the 26th day of July, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed Dec. 5th, 1854.

C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California, Los Angeles county.

JOSE MARIA VILLAVICENCIA ads. THE UNITED STATES. No. 190.

To the Hon. Isaac S. K. Ogier, Judge of the District Court of the United States for the southern district of California:

The petition of Pacificus Ord, (of Monterey county,) attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in his proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 20th day of April, A. D. 1852, José Maria Villavicencio presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land called "Corral de Piedra," containing two square leagues, more or less, in the words and figures following, to wit: The petitioner, José Maria Villavicencio, respectfully shows, that on the 20th day of December, A. D. 1840, he applied through the proper authorities for the tract of land called "Corral de Piedra," which is shown by the expediente, a copy of which is sub-

mitted herewith marked "A," with a translation marked "B;" that on the 14th of May, A. D. 1841, Juan B. Alvarado, governor of California, by virtue of authority in him vested, granted to the petitioner the said tract of land, situate in the present county of San Luis Obispo, with the boundaries specified in the grant and accompanying map, but specifying its extent to be two square leagues, a little more or less, a copy of which grant and map is submitted herewith marked "C," with a translation marked "D." That on the 2d day of September, A. D. 1842, the said tract of land was duly surveyed and juridical possession of it given to the petitioner, a copy of which act is submitted herewith marked "E," with a translation marked "F." That finding his juridical possession to contain more land than that specified in the title, he petitioned to the governor for an extension of his title; and that accordingly, Pio Pico, governor of California, by virtue of authority in him vested, on the 28th day of May, A. D. 1846, extended the title of the petition to include all the land included in his map and juridical possession, a copy of which grant of extension is submitted herewith marked "G," with a translation marked "H."

And the petitioner further shows, that the said tract of land has not been surveyed by the Surveyor General of the United States, but that it was duly surveyed at the time of giving the juridical possession of it, and its boundaries marked out. That the petitioner has been since the year 1840, and now is, with those holding under him, in the quiet, peaceful, and undisputed possession and occupation of the said tract of land. That he knows of no conflicting claim. That he relies for confirmation of title upon the original papers, copies of which are submitted herewith, upon the minutes and records in the archives now under the charge of the Surveyor General of the United States, and upon such other and further proofs as he may be advised are necessary; wherefore he prays the commissioners to confirm to him the said tract of land.

Your petitioner further represents, that thereafter, to wit, on the 15th day of November, A. D. 1853, the said commissioners confirmed, by final decree, the said claim of the said José Maria Villavicencio, in the words and figures following, to wit:

"JOSE MARIA VILLAVICENCIO
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THE UNITED STATES.

"In the case, on hearing the proofs and allegations, it is adjudged by the commission, that the said claim of the petitioner is valid, and it is therefore hereby decreed that the same be confirmed. The lands of which confirmation is hereby made are called by the name of 'Corral de Piedra,' being situated in San Luis Obispo county, and the same on which said claimant resides, and bounded and described as follows, to wit: Beginning at a point in the boundary with Don José Ortega, in the Arroyo Grande, at the place designated by the name of 'Paso de Niponia;' thence running up the plain of the

arroyo in an easterly direction seven thousand five hundred varas, to the foot of the sierra and narrow pass of the hills, to a stake placed as a boundary; thence halfway up the slope of said sierra, northwest ten thousand varas to a point in the boundaries with the establishment of San Luis Obispo, which place is marked by a cerrito situated in the plain; thence from said cerro southwardly to the wooded hills and grove of oaks, and going back from the same cerro to the foot of the high sierra below the pines to a stake driven as a boundary, both of said lines together being seven thousand and five hundred varas; thence along the ridge boundary, with the place known as the place of Don José Ortega, two thousand varas to the place of beginning, containing two square leagues of land, be the same more or less. Reference for further description of said premises to be had to the testimonial of juridical survey and the map attached thereto, which are on file in this case.

"ALPHEUS FELCH,
"R. AUG THOMPSON,
"THOMPSON CAMPBELL,
"*Commissioners.*"

"Filed in office, Nov. 15, 1853.

GEO. FISHER, *Secretary.*"

That thereafter, to wit, on the 26th day of August, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 190, reference to which it is prayed may be had and made a part of this petition.

That on the 26th day of July, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of the said final decree and proceedings of said commissioners in said cause, (No. 190,) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 5th day of December, A. D. 1854, the said Attorney General of the United States filed, or caused to be filed, on behalf of the United States, a notice with the said clerk of said district court for the southern district of California, that the appeal in said cause of José Maria Villavicencio vs. the United States, from the decision of the said commissioners to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land, claimed as aforesaid, is within the jurisdiction of this honorable court.

And your petitioner further represents and insists, that the said decree of said commissioners is erroneous, and ought to be reviewed, reversed and set aside for many errors and imperfections of law and evidence apparent in said certified transcript of said cause now on appeal from

said commissioners to this honorable court. And your petitioner further represents that the said claim is invalid, and the said decree erroneous, on the following grounds:

1. That the said José Maria Villavicencio shows no valid title to the said land claimed by him as aforesaid, and it is denied that he has any.

2. That the said alleged grant of Governor Alvarado was made in violation of the 4th article of the colonization law of Mexico, of the 18th of August, A. D. 1824, in this, that the land granted, as alleged by claimant, was and is within ten leagues of the sea-coast, and there is no evidence by claimant that the supreme general executive power of Mexico previously approved of the colonization of the lands of California, within ten leagues of the sea coast, and it is denied that such previous consent of said general executive power of Mexico in such case was ever had.

3. That at the date of the said alleged grant the said land claimed as aforesaid was occupied by, and in the possession of, the missions of California, and particularly by the mission of San Luis Obi-po, with valuable improvements thereon, and could not therefore be colonized.

4. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the law of Mexico, of the 18th of August, A. D. 1824, and the regulations for the colonization of the territories of Mexico, of the 21st of November, A. D. 1828.

5. That there is no evidence that the documents in said transcript purporting to be copies of the petition of José Maria Villavicencio, dated the 20th of December, A. D. 1840, and the report thereon of José F. Castro, dated the 14th February, 1841; and the decree of Alvarado, dated the 27th of February, A. D. 1841, granting the land to said Villavicencio which he petitioned for; and the certificate of Manuel Jimeno, that the said documents are faithful copies existing in the secretary's office of the government under his charge, dated the 2nd of July, A. D. 1842; and that the map with the certificate of the said Manuel Jimeno is a true copy of the original which exists in the secretary's office under his charge, are true and correct copies of the original documents on file in the office, and in the possession of the United States surveyor general for California; and it is denied that there are any such original documents on file in the office, and in the possession of said surveyor general; and it is also denied that said documents, purporting to be copies of original documents, are true copies of original documents or expedientes on file in said office.

6. That the document shown, purporting to be a title of Governor Juan B. Alvarado for the said land to said claimant, dated the 14th of May, A. D. 1841, has not the signature of the secretary; that the said alleged title does not describe the land claimed with sufficient certainty to identify the same, and it is vague and indefinite.

7. That there is no evidence that said alleged grant of said governor of said date was ever approved by the departmental assembly of California, and it is denied that it was ever approved by said assembly.

8. That no definitive grant for said land is shown by said claimant, and it is denied that he ever received a definitive grant for said land.

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"ALPHEUS FELCH,
"R. AUG THOMPSON,
"THOMPSON CAMPBELL,
"*Commissioners.*"

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Your petitioner further represents, that the said land, claimed as aforesaid, is within the jurisdiction of this honorable court.

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3. That at the date of the said alleged grant the said land claimed as aforesaid was occupied by, and in the possession of, the missions of California, and particularly by the mission of San Luis Obi-po, with valuable improvements thereon, and could not therefore be colonized.

4. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the law of Mexico, of the 18th of August, A. D. 1824, and the regulations for the colonization of the territories of Mexico, of the 21st of November, A. D. 1828.

5. That there is no evidence that the documents in said transcript purporting to be copies of the petition of José Maria Villavicencio, dated the 20th of December, A. D. 1840, and the report thereon of José F. Castro, dated the 14th February, 1841; and the decree of Alvarado, dated the 27th of February, A. D. 1841, granting the land to said Villavicencio which he petitioned for; and the certificate of Manuel Jimeno, that the said documents are faithful copies existing in the secretary's office of the government under his charge, dated the 2nd of July, A. D. 1842; and that the map with the certificate of the said Manuel Jimeno is a true copy of the original which exists in the secretary's office under his charge, are true and correct copies of the original documents on file in the office, and in the possession of the United States surveyor general for California; and it is denied that there are any such original documents on file in the office, and in the possession of said surveyor general; and it is also denied that said documents, purporting to be copies of original documents, are true copies of original documents or expedientes on file in said office.

6. That the document shown, purporting to be a title of Governor Juan B. Alvarado for the said land to said claimant, dated the 14th of May, A. D. 1841, has not the signature of the secretary; that the said alleged title does not describe the land claimed with sufficient certainty to identify the same, and it is vague and indefinite.

7. That there is no evidence that said alleged grant of said governor of said date was ever approved by the departmental assembly of California, and it is denied that it was ever approved by said assembly.

8. That no definitive grant for said land is shown by said claimant, and it is denied that he ever received a definitive grant for said land.

9. That the alleged act of juridical possession and survey by J. Mariano Bonilla, justice of the peace of San Luis Obispo, dated September the 3rd, A. D. 1842, was not made according to the said alleged grant and map of said date, nor according to the ordinance or law; that it is vague and indefinite, and void for uncertainty.

10. That there is no evidence that the said J. Mariano Bonilla was on the 3rd of September, A. D. 1842, a justice of the peace of San Luis Obispo, with lawful authority to make said act of juridical survey and possession of said land, and it is denied that he was justice of the peace on the 3rd of September, A. D. 1842, and had lawful authority to make said act of juridical survey and possession of said land.

11. That the document shown purporting to be a copy of an order of Governor Pio Pico, dated the 28th of May, A. D. 1846, is not shown to be authentic, and its authenticity is denied. That said Pio Pico had no lawful authority to make such an order. That it was never approved by the departmental assembly of California. That it refers to a grant of land of the supreme departmental government, in favor of said claimant, of the date of the 12th of July, A. D. 1842, which is not shown by claimant. That it is vague and indefinite.

12. That there is no evidence that the said claimant built a house on the said land within one year from the date of the said alleged grant, and that it was occupied; and it is denied that he built a house on the said land, within one year from the date of the said grant, and that it was occupied.

And no proof having been made by said claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition ought to have been dismissed, and said claim rejected by said commissioners upon the grounds aforesaid.

Wherefore the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises and the laws and statutes in such case made and provided, prays that the said José Maria Villavicencio, or his attorney, may be served with a copy of this petition, and that this honorable court will review the said decision or final decree of confirmation of said commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said José Maria Villavicencio, for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid, and all such other orders, judgments or decrees as may be just, with costs, and general relief.

P. ORD,

Attorney of the United States for the Southern District of California.

Filed Jan'y 5th, 1855.

C. E. CARR, *Cl'k.*

In the United States District Court for the Southern District of California.

THE UNITED STATES, appellant,
vs.
JOSE MARIA VILLAVICENCIA, appellee.

Docket No. 45.—Land Commission No. 190.—Claim for "Corral de Piedra."

And now comes the above named appellee, José Ma. Villavicencio, by J. R. Scott, his attorney, and for answer to the petition for review filed in this case by the appellant, says:

That on the 14th day of May, A. D. 1841, Juan B. Alvarado, then constitutional and acting governor of Upper California, and duly authorized by law to make such grants, by his deed of grant of that date, duly executed according to law, did grant and convey unto this appellee a tract of land known as "Corral de Piedra," the same containing two square leagues, a little more or less.

And that on the 3rd day of September, A. D. 1842, said lands of "Corral de Piedra" were duly re-measured, and juridical possession given to this appellee by the competent judicial authorities of the district wherein said lands were situate. And that on the 20th day of April, A. D. 1852, this appellee filed, before the United States board of land commissioners to ascertain and settle the private land claims in California, his petition setting forth his title to said lands of "Corral de Piedra," and praying said board for a confirmation thereof; and this appellee also filed before said board certain documentary evidence and depositions of witnesses, in support of his said title, all of which petition, documentary evidence and depositions of witnesses, as well as the subsequent proceedings of said commissioners in the matter, are contained in the transcript now on file in this office of the clerk of this court, to the whole of which this appellee refers and makes a part of this his answer.

And this appellee further states, that on the 15th day of November, A. D. 1853, the said board of commissioners, after hearing the petition and proofs of this appellee, by their decree of that date confirmed said lands to this appellee.

Whereby this appellee avers that he has become and is lawfully seized in fee simple of said lands, and he avers that he has, from the date of the above mentioned grant to the present time, done, performed and fulfilled all things and conditions necessary by law for him to do, perform and fulfil, to perfect his title to said lands, particularly by an act of the Congress of the United States, entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3rd, 1851.

And this appellee further states, that said lands are situate in the present county of San Luis Obispo, and within the jurisdiction of this honorable court; and for further answer to the petition for review filed in this case by the appellant, this appellee denies all and singular, each and

every allegation therein contained, except what is admitted in this answer; and he denies that there is any thing in said petition contained, either in law or in fact, to estop or prevent this honorable court from affirming the said decree of the said board of land commissioners, and confirming to this appellee his title to the lands in this case.

Wherefore this appellee prays the judgment of this honorable court, that the decree of the said commissioners may be affirmed, and that his title to the said lands of "Corral de Piedra" may be confirmed, and that he may be dismissed hence with costs, and may have such other and further relief as shall be agreeable to equity and good conscience, and the nature of his case may require.

J. R. SCOTT,
Attorney for Appellee.

Filed April 11th, 1855.

C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California.

JOSE MARIA VILLAVICENCIA ads. THE UNITED STATES. } No. 45.

Transcript No. 190—"Corral de Piedra."

To JOSE MARIA VILLAVICENCIO, or his Attorneys:

Take notice, that the above entitled cause will be brought to a hearing by the United States, on the 19th day of October, A. D. 1855, or as soon thereafter as the same can be heard by the court.

P. ORD, *Dist. Att'y U. S.*

Los Angeles, Oct. 11th, 1855.

Filed, Oct. 11th, 1855.

C. E. CARR, *Cl'k.*

In the United States District Court for the southern district of California.

THE UNITED STATES, appellant, vs. JOSE MARIA VILLAVICENCIO, appellee. } No. 45.

Claim for "Corral de Piedra."

And now on this day of , A. D. 1855, the parties appear in court, the appellant appearing by P. Ord, United States district attorney for the southern district of California, and the appellee appearing by their attorney, J. R. Scott; and on the motion af the appellee's attorney, it is ordered, that either party may take such further testimony as they shall wish in the above entitled cause.

Filed.

In the United States District Court for the southern district of California.

JOSE MARIA VILLAVICENCIO, appellee, ads. THE UNITED STATES, appellant. } Case No. 45.

Transcript 190—"Corral de Piedra."

Translation of certificate to map, see Transcript, page 17.

He who subscribes, secretary of the government of the department of the Californias, certifies that the map, which is shown on the reverse, is a copy of the original, which is in existence in the secretary's office of my charge.

MAN'L JIMENO.

Monterey, July 21st, 1842.

The present certificate is issued on common paper, for want of stamped. JIMENO.

Filed, Oct. 19th, 1855.

C. E. CARR, *Cl'k.*
By J. W. ROSS, *Dep'y.*

In the United States District Court, in and for the southern district of California.

JOSE MARIA VILLAVICENCIO, appellee, ads. THE UNITED STATES, appellants. } Case No. 45.

"Corral de Piedra."

This cause coming on to be heard on appeal from the final decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress, approved March 3rd, 1851, on a transcript of the proceedings and decision of said board, and of the papers and evidence upon which said decision was founded, and it appearing to the court that said transcript has been duly filed according to law, and counsel for the respective parties having been heard:

It is ordered, adjudged and decreed, that the said decision of the said board be, and the same hereby is affirmed; and it is further adjudged and decreed, that the claim of the above named appellee is good and valid, and that the same be confirmed to him, to the extent of and within the boundaries described in the act of judicial possession, and in the map referred to in the grant.

ISAAC S. K. OGIER,
U. S. district judge.

Filed January 10th, 1856.

C. E. CARR, *Cl'k.*